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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/952,194 11/10/97 TSZYAN KANCHZHEN

U011457-4

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NEW YORK NY 10023

QM12/0925

EXAMINER

SCHAETZLE, K

ART UNIT

PAPER NUMBER

3762

DATE MAILED:

09/25/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/952,194

Applicant(s)
Vladimirovich

Examiner
Ken Schaetzle

Group Art Unit
3762



☒ Responsive to communication(s) filed on Aug 30, 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-8 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-8 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☒ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Continued Prosecution Application

1. The request filed on August 30, 2000 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 08/952,194 is acceptable and a CPA has been established. An action on the CPA follows.

Specification

2. The abstract of the disclosure is objected to because it is not sufficiently descriptive of the claimed invention. The examiner suggests incorporating a statement pertaining to the purpose of the device. Correction is required. See MPEP § 608.01(b).

3. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: "This device allows to transmit..." (page 1, line 8); "As a source of biofield can be used the hands of the operator who..." (page 2, lines 11-13); "...this case is sued a source of information supply..." (page 2, lines 23 and 24); "compargtment" (page 6, line 16); "...biofield must be used green mass of melon..." (page 10, line 17), etc.

Claim Objections

4. Claims 7 and 8 are objected to because of the following informalities: the phrase "...as the source..." is grammatically awkward. Appropriate correction is required.

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Claim Rejections - 35 USC § 101/112

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 1-8 are rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a credible asserted utility or a well established utility.

The asserted utility of transmitting a natural information supply to a biological object to "...replenish the biofield of the object..." to "...eliminate possible pernicious influence on a biological object of a source's biofield that has been harmfully affected during its intercourse with another object..." to "...change features of an animal or plant..." would more likely than not have been questioned by those of ordinary skill in the health care or husbandry arts. Note in particular MPEP 2107(b) wherein the courts have stated that inventions purporting to change the taste of food via magnetic fields (note page 10 first full paragraph of the present specification) or control the aging process (note page 1, line 26- page 2, line 5 of the present specification), are utilities which are inconsistent with known scientific principles. Since the validity of such utility claims have previously been questioned by those of ordinary skill in the art, so too must the present substantially similar claims for utility be questioned.

The disclosed invention is also inoperative and therefore lacks utility. Given the minuscule amounts of energy and the known types of energy being given off by a biological object such as a plant or animal, it would be highly suspect to those of ordinary skill in the art that said energy could be collected, focused, and transmitted at a distance passively to a second object, causing said second object to take on certain beneficial characteristics of the first object. The transmission of genetic code from one object to another via transmission of the so-called bioelectromagnetic field without physical contact is clearly at odds with all known, scientifically acceptable, genetic research.

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 1-8 are also rejected under 35 U.S.C. 112, first paragraph. Specifically, since the claimed invention is not supported by either a credible asserted utility or a well established utility for the reasons set forth above in the rejection under 35 U.S.C. § 101, one skilled in the art clearly would not know how to use the claimed invention.

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Conclusion

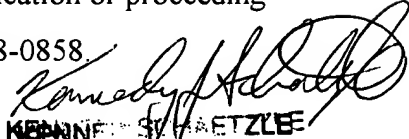
9. All claims are drawn to the same invention claimed in the parent application prior to the filing of this Continued Prosecution Application under 37 CFR 1.53(d) and could have been finally rejected on the grounds and art of record in the next Office action. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing under 37 CFR 1.53(d). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Schaetzle whose telephone number is (703) 308-2211. The examiner can normally be reached on Mondays through Fridays from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes, can be reached on (703) 308-0858. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3590.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.


KENNEDY SCHAETZLE
PRIMARY EXAMINER

September 21, 2000

KENNEDY SCHAETZLE
PRIMARY EXAMINER